

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRENDA PARRISH, Individually, and as
Administratrix of the Estate of KYLE J.
PARRISH.,

Plaintiff,

v.

MEDTRONIC USA, INC., ET AL.,

Defendants.

CASE NO: 1:19-CV-02995

JUDGE JAMES S. GWIN

ORAL ARGUMENT REQUESTED

**DEFENDANTS MEDTRONIC USA, INC., MEDTRONIC, INC., AND HEARTWARE
INTERNATIONAL INC.'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

Pursuant to Rules 8(a) and 12(b)(6) of the Federal Rules of Civil Procedure, Medtronic USA, Inc., Medtronic, Inc., and Heartware International Inc. [collectively, "Defendants"] hereby move to dismiss the complaint filed by Plaintiff Brenda Parrish for failure to state a claim upon which relief can be granted. All of Plaintiff's claims are expressly or impliedly preempted by federal law, as interpreted by *Riegel v. Medtronic, Inc.*, 552 U.S. 312 (2008) and *Buckman Co. v. Plaintiffs' Legal Committee*, 531 U.S. 341 (2001). In addition, Plaintiff's conclusory allegations fail to satisfy the requisite pleading standards. For all of these reasons, and as set forth more fully in the accompanying brief, Defendants respectfully request that this Court grant their motion and dismiss Plaintiff's Complaint in its entirety.

A memorandum of law in support of this motion is attached. Defendants respectfully request that this Court hear oral argument.

Dated: January 20, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of January, 2020, I caused true and correct copies of the foregoing to be filed with the Court using the CM/ECF system and, further, caused true and correct copies to be served via electronic mail to the electronic mail addresses set forth below:

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